

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0118

SENATE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to MEADE-PARTIES TO CRIMES.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-3-1 be amended to read as follows:

4 22-3-1. Any person is capable of committing a crime, except those ~~belonging to~~ included  
5 in the following classes:

6 (1) ~~Children~~ Any child under the age of ten years;

7 (2) ~~Children~~ Any child of the age of ten years, but under the age of fourteen years, in the  
8 absence of proof that at the time of the committing the act or neglect charged ~~against~~  
9 ~~them they,~~ the child knew its wrongfulness;

10 (3) ~~Persons~~ Any person who committed the act or made the omission charged under ~~an~~  
11 ignorance or mistake of fact which disproves any criminal intent, ~~but,~~ However,  
12 ignorance of the law does not excuse a person from punishment for its violation;

13 (4) ~~Persons~~ Any person who committed the act charged without being conscious thereof;  
14 or

15 (5) ~~Persons~~ Any person who committed the act or made the omission charged while  
16 under involuntary subjection to the power of superiors.



Section 2. That § 22-3-1.1 be amended to read as follows:

22-3-1.1. ~~A~~ No person who is under the influence of voluntarily consumed or injected alcohol or controlled substances at the time of committing the act charged ~~against him~~ is ~~not thereby~~ for that reason insane.

Section 3. That § 22-3-3 be amended to read as follows:

22-3-3. Any person who, with the intent to promote or facilitate the commission of a crime, aids, abets, or advises another person in planning or committing the crime, is legally accountable, as a principal to the crime.

Section 4. That § 22-3-3.1 be amended to read as follows:

22-3-3.1. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated. Any person connected with the commission of a felony, whether ~~he~~ that person directly commits the act constituting the offense or aids and abets in its commission, though not present, ~~must~~ shall be prosecuted, tried, and punished as a principal.

Section 5. That § 22-3-5 be amended to read as follows:

22-3-5. A person is an accessory to a crime, if, with intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction, or punishment of another for the commission of a felony, ~~he~~ that person renders assistance to the other person. There are no accessories to misdemeanors.

~~"Render assistance"~~ The term, render assistance, means to:

- (1) Harbor or conceal the other person;
- (2) Warn the other person of impending discovery or apprehension, ~~except that this does not apply to~~ other than a warning given in an effort to bring the other person into compliance with the law;

(3) Provide the other person with money, transportation, a weapon, a disguise, or any other thing to be used in avoiding discovery or apprehension;

(4) Obstruct anyone by force, intimidation, or deception in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of the other person; or

(5) Conceal, destroy, or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of the other person.

A violation of this section is a Class 5 felony.

Section 6. That § 22-3-5.1 be amended to read as follows:

22-3-5.1. An accessory to the commission of a felony may be prosecuted, tried, and punished, even if the principal is not prosecuted or tried, ~~and~~ or even if the principal was acquitted.

Section 7. That § 22-3-8 be amended to read as follows:

22-3-8. If two or more persons conspire, either to commit any offense against the State of South Dakota, or to defraud the State of South Dakota, or any county, township, school district, or municipal corporation in any manner or for any purpose, and one or more of the parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy ~~shall be~~ is guilty ~~as follows:~~

~~(1) If the conspiracy was to commit a felony, each party is guilty of a classified felony which is one classification less severe than the felony to be committed, but in no case shall the punishment for conspiracy to commit a felony be less than a Class 6 felony. If the conspiracy was to commit a felony which has not been classified, the principal felony shall be presumed to be classified in the class set forth in § 22-6-1 which matches the maximum imprisonment authorized for that felony; provided, that when~~

1           ~~the maximum imprisonment authorized for an unclassified felony falls between two~~  
2           ~~classifications, the principal felony shall be presumed to be classified in the less~~  
3           ~~severe class;~~

4     ~~— (2) — If the conspiracy was to commit a Class 1 misdemeanor, each person is guilty of a~~  
5           ~~Class 1 misdemeanor.~~

6     ~~— It of conspiracy and may be punished up to the maximum penalty which may be imposed~~  
7     ~~for a crime which is one level below the penalty prescribed for the crime underlying the~~  
8     ~~conspiracy. However, it is not a crime to conspire to commit a Class 2 misdemeanor or a petty~~  
9     ~~offense.~~

10       Section 8. That § 22-3-9 be amended to read as follows:

11       22-3-9. Any person who, while out of the state, causes, aids, advises, or encourages another  
12     person to injure any person or property in this state by means of any act or neglect which is a  
13     crime in this state, is liable to punishment under the laws of this state.